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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Reallocation of Television Channels) ET Docket No. 97-157
60-69, the 746-806 MHz Band)

To: The Commission

REPLY COMMENTS OF KM COMMUNICATIONS, INC.

KM Communications, Inc. ("KM"), by its counsel, and pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, submits these Reply Comments in reply to certain comments filed by various parties in response to the Notice of Proposed Rulemaking¹ in the above-captioned proceeding.²

1. KM, a woman-owned and minority-owned corporation, is the licensee of four Low Power Television ("LPTV") stations, is the permittee or its principal has interests in the permittee for several new full power commercial television stations, and has two dozen applications pending for new full power commercial television stations. In comments filed in this proceeding,³ KM asserted that the Commission should: (i) reallocate only 24 MHz of spectrum for public safety services; (ii) limit use of the remaining 36 MHz of spectrum to

¹ Reallocation of Television Channels 60-69, the 746-806 MHz Band, ET Docket No. 97-157, Notice of Proposed Rulemaking, FCC 97-245 (released July 10, 1997) ("NPRM").

² Reply comments in response to the NPRM must be filed within 75 days after the July 31, 1997 publication of the notice of the NPRM in the Federal Register, see 62 Fed. Reg. 41,012 (1997), or by October 14, 1997.

³ See Comments of KM Communications, Inc., filed September 15, 1997.

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commercial full power and LPTV stations until the end of the digital television ("DTV") transition, with a substantial preference for LPTV stations within their market in any subsequent auction of that spectrum; and (iii) treat parties with applications pending for new stations on Channels 60 to 69 equitably.

2. Not surprisingly, some parties with a vested interest took the extreme position of urging the Commission to immediately eliminate all broadcast uses of Channels 60 to 69, summarily revoke any outstanding construction permits and dismiss any pending applications for new full power television stations in that band, and/or reallocate all 60 MHz of spectrum between 746 MHz and 806 MHz to public safety services immediately (without adequately demonstrating any need for the full 60 MHz of spectrum for public safety services at this time),⁴ without regard for displacing the incumbent broadcast use and investment. Fortunately, even some land mobile radio and public safety advocates apparently agree with the more reasonable -- and KM submits, reasoned -- approach advocated by KM, which recognizes that broadcasters must be permitted to continue to use the 36 MHz of spectrum not reallocated to public safety throughout the DTV transition period.⁵ KM urges the Commission to approach

⁴ See, e.g., Comments of the National Public Safety Telecommunications Council ("NPSTC") (urging Commission to eliminate broadcast services entirely from 746 MHz to 806 MHz band immediately, and supporting dismissal of pending applications for Channels 60 to 69); Comments of the Association of Public-Safety Communications Officials-International, Inc. ("APCO") (supporting dismissal of pending applications for Channels 60 to 69); Comments of the National League of Cities, *et al* ("NLC") (proposing to eliminate all broadcast use and immediately reallocate all of 746 MHz to 806 MHz for public safety uses). Each of these commenters are involved in public safety.

⁵ See, e.g., Comments of the Land Mobile Communications Council ("LMCC") (recognizing the necessary DTV transition period when advocating eventual elimination of broadcast uses from the band); Comments of UTC, The Telecommunications Association ("UTC") (acknowledging broadcast use during DTV transition).

this spectrum reallocation in a manner that balances the desire for additional spectrum for public safety and other uses with the need to preserve the valuable existing broadcast service that must continue to be provided with this spectrum throughout the DTV transition period. KM also hopes that the Commission recognizes and can accommodate the important timing aspects of the transition from the existing broadcast use to new public safety and other uses of the spectrum.

3. KM agrees with WinStar Broadcasting Corp. ("WinStar") that dismissal of all pending applications for new television stations proposed for Channels 60 to 69 would not be warranted, particularly without consideration of the need for the spectrum for public safety purposes in the geographic area of the proposed new television station.⁶ KM, as is WinStar, is an applicant for Channel 62 at Arcade, New York, and has asserted that it would be inequitable to simply dismiss pending television applications in order to auction the spectrum and raise revenues, where the applicants have invested substantial time and resources in prosecuting their pending applications.⁷ The public safety commenters that have urged the Commission to summarily dismiss all pending applications have focused solely on the recovery of the spectrum for public safety, with no consideration given to the public interest that would be served by the proposed new stations or the applicants' interests in their applications.⁸ KM urges the Commission to weigh the equities of the matter more evenly and carefully, and in the balanced manner required for any determination of the public interest.

⁶ See Comments of WinStar Broadcasting Corp. at 3-6.

⁷ See KM Comments at 7 and n.11.

⁸ See NPSTC Comments at 13; APCO Comments at 7; Comments of the State of California ("California") at 5.

4. Some parties suggest that the Commission should permit potentially affected applicants to amend their applications to specify a channel in the core spectrum, below Channel 60.⁹ KM supports this proposal to the extent that the Commission revises the television Table of Allotments¹⁰ on its own motion to accommodate such amendments, or at least acts expeditiously on petitions from applicants to amend the Table of Allotments, with cut-off protection for pending applications.

5. In considering its rules for the spectrum reallocation, the Commission must also take into consideration certain technical factors identified by some commenters which support the continued broadcast use of the spectrum, by both full power and LPTV stations, during the DTV transition. For example, the potential interference from analog and DTV stations -- which the Commission has already determined, in the DTV proceeding, will continue to use the spectrum during the DTV transition -- to public safety or other land mobile radio uses¹¹ supports delaying the reallocation of the remaining 36 MHz from broadcast to other uses until after the DTV transition, as proposed by KM. However, if broadcasters and public safety or land mobile radio users must use the spectrum simultaneously during some transition period, even parties with public safety or land mobile radio interests recognize that such sharing can be

⁹ See, e.g., NPSTC Comments at 13; Motorola Comments at 15; WinStar Comments at 6-7.

¹⁰ 47 C.F.R. § 73.606(b).

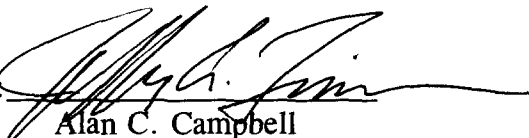
¹¹ See, e.g., NPSTC Comments at 6-9.

accomplished,¹² and that the potential for interference from an LPTV operation will be significantly less than that of a 5 megawatt full power UHF station.¹³

6. KM respectfully requests that the Commission adopt rules for the reallocation of Channels 60 to 69, 746 MHz to 806 MHz, that are not inconsistent with KM's comments and the reply comments made herein.

Respectfully submitted,

KM COMMUNICATIONS, INC.

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¹² See LMCC Comments at 7 and n.11; Motorola Comments at 8 and n.21.

¹³ See Motorola Comments at 11 and n.26. KM recognizes and appreciates Motorola's support for preserving the maximum number of LPTV stations as possible during the DTV transition process. Id. at 12.

CERTIFICATE OF SERVICE

I, Laura Ann Campbell, hereby certify that on this 14th day of October, 1997, copies of the foregoing "Reply Comments of KM Communications, Inc." have been served by first-class United States mail, postage prepaid, upon the following:

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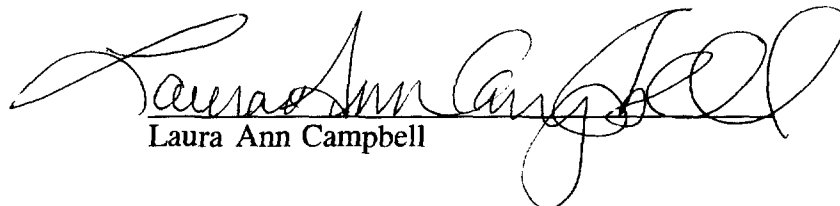
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